

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

RICHARD CALLAWAY,

Plaintiff,

vs.

TERRIE STEFALO, et al.,

Defendants.

CV 18–00146–GF–BMM–JTJ

ORDER

Plaintiff Alex Richard Callaway (“Callaway”), a pro se prisoner proceeding without counsel, filed a Complaint (Doc. 2) alleging Defendants violated his rights under the Religious Land Use and Intuitionized Persons Act (“RLUIPA”), and the First and Fourteenth Amendments.

Mail sent by the Court to Callaway on May 21, 2019, was returned as undeliverable. (Doc. 7.) The Montana Department of Corrections website indicates that Callaway has been paroled (Doc. 6 at 7) and the Clerk of Court forwarded this mailing to Callaway in care of the Missouri Interstate Compact Office. (Doc. 7.) The Court’s November 21, 2018, Notice of Case Opening (Doc. 3 at 2) advised

Callaway that he must immediately inform the Clerk of Court of any change in his address and that a failure to do so could result in dismissal of his case.

Nearly 30 days have elapsed since the return of written communication from the Court addressed to Callaway's address of record. Callaway has never filed a notice of change of address. Injunctive relief represents the only relief that Callaway may obtain under RLUIPA. (Doc. 6 at 7.) Callaway has been paroled. *Id.* His claims for injunctive relief have been rendered moot. *Id.*

Magistrate Judge John Johnston entered his Finding and Recommendations in this matter on May 5, 2019. (Doc. 6.) Judge Johnston determined that Callaway had failed to state a federal claim for relief and that this action should be dismissed. *Id.* at 1. Callaway did not object to Judge Johnston's Findings and Recommendations.

Absent objection, this Court reviews findings and recommendations for clear error. *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000) (citations omitted). The Court finds no error in Judge Johnston's Findings and Recommendations.

IT IS ORDERED that Judge Johnston's Findings and Recommendations (Doc. 6.) are **ADOPTED IN FULL**.

IT IS FURTHER ORDERED that Callaway's action is **DISMISSED** for failure to state a federal claim.

IT IS FURTHER ORDERED that the Clerk of Court is directed to close this matter and enter judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure.

IT IS FURTHER ORDERED that the Clerk of Court is directed to have the docket reflect that the Court certifies pursuant to Rule 24(a)(3)(A) of the Federal Rules of Appellate Procedure that any appeal of this decision would not be taken in good faith. No reasonable person could suppose an appeal would have merit. The record makes plain the Complaints lack arguable substance in law or fact.

IT IS FURTHER ORDERED that the Clerk of Court is directed to have the docket reflect that this dismissal counts as a strike pursuant to 28 U.S.C. § 1915(g).

DATED this 19th day of June, 2019.



Brian Morris
United States District Court Judge

